

October 3, 2013

The Board of Public Works & Safety met at 4:00 pm on the above date in the Meeting Room at City Hall Annex Mayor Tucker presiding and members Fuelling and Curtis attending. Others attending were Chief Beloit; Chief Dixon; Supt. Givens; Comm. Dieterle; Supt. Gray; Bennie Watson; Code Enforcement Officer Leigh-Ann Springer; Sara Manifold – Mount Vernon Democrat; and Lois Gray – Posey County News.

Mayor Tucker called the meeting to order by stating members were either mailed or hand carried copies of the minutes of the previous meeting and by asking if there were any corrections or additions. He added if not, he entertains a motion to waive their reading and to approve the minutes as presented.

Board member Curtis moved the reading of the minutes be waived and they be approved as presented. Seconded by Board member Fuelling.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Mayor Tucker requested action on the claims presented.

Board member Fuelling moved the claims presented be allowed for payment. Seconded by Board member Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Mayor Tucker stated as Mr. Watson has another engagement, they will dispense with the order of the Agenda and let him address his business at this time.

Mr. Watson approached and stated he is a land lord and when his tenants don't pay their water and sewer bill, it falls on him. He feels the city is negligent in their ordinance on sewer liens being placed on property. There is no due process until the lien is filed. He added he knew nothing about this until the lien was filed on his property. He then handed Mayor Tucker a copy of an Indiana Code, to which he had referred.

Mr. Watson continued by stating the land lord should not be liable, unless there is an agreement to pay the bill. He added he had such a written agreement that he took to the water office, with a witness, stating if a tenants bill reached \$150 he was to be notified and he would take care of it. That never happened in this case. He stated the city ordinance may not be legal. He added he has no problem paying taxes, but he feels this is just another form of taxation without representation. That is his issue. The ordinance needs amended to let the land owner know what is being charged, the city is negligent.

Board member Curtis stated he has discussed this with Mr. Watson, the issue of this sewer lien, and the city is placing them based on Indiana code. He added he feels they need to table this today and take it to the City Attorney. It sounds like there may be two or three issues here.

Mr. Watson relied he is concerned with the matter of due process.

Board member Curtis agreed and that Mr. Watson did have the request in writing at the water office to ask for the bills when they became delinquent.

Mr. Watson added their system is not doing the job.

Supt. Givens stated Attorney Higgins advises them and if he had a written request to be notified, then the land lord should be notified, and to his knowledge, it is working.

Mr. Watson replied he wasn't notified, there is a breakdown in due process. He then stated most land lords agree with him.

Board member Curtis stated they need to talk to the City Attorney and also get Mr. Watson a copy of the Indiana Code on sewer liens.

Mr. Watson stated he realizes the land lords are a small group, and small groups can't fight city hall.

Supt. Gray added the State of Indiana is the one making the city put these liens on.

Mr. Watson stated he is no trying to be hard here, but this system needs some adjustments.

Board member Curtis agreed and added if he did indeed turn in a letter, in writing, that is a simple thing. They need to initial it, make a copy for the land lord, and for them. He added he isn't questioning the validity of the letter.

Mr. Watson stated something needs to be done. The city is losing money under this ordinance. He then wondered if he was being charged commercial water rates as he is zoned commercial.

Supt. Givens replied no, homes are residential.

Mr. Watson stated he pays commercial taxes. He then added he knows of commercial businesses that have just up and left town and left the city holding the bag.

Board member Curtis stated he is not an attorney, but the City Attorney needs to look into this and they will be back in touch with Mr. Watson.

Mayor Tucker suggested he write another letter as well.

Mr. Watson replied Ms. Morrow did that for him just the other day.

Mayor Tucker stated it sounds like they have conflicting Indiana Codes.

Board member Curtis stated he believes the issues here is whether they can file the lien in the first place.

Mr. Watson agreed and added he realizes they can't please everyone.

Board member Curtis stated they will check the procedure.

Mayor Tucker stated this action came as a result of State Board of Accounts writing the city up year after year for NOT filing the sewer liens.

Mr. Watson replied State Board of Accounts is not always right, he then added he feels this is wrong.

Board member Fuelling stated he isn't saying anything at this point because he isn't sure what is right.

Mr. Watson thanked the Board for their time.

Mayor Tucker stated they will now hear the reports of the Departments.

Chief Beloat stated he would like approval for extra patrols on the weekends this month, as Halloween is approaching.

Board member Fuelling moved approval be given. Seconded by Board member Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Chief Dixon stated he has no report.

Mayor Tucker asked if there were any questions ?

There were none.

Comm. Dieterle stated he has no report.

Mayor Tucker asked if there were any questions ?

There were none.

Supt. Givens stated he has no report.

Mayor Tucker asked if there were any questions ?

There were none.

Mr. Watson left the meeting.

Mayor Tucker stated they will now start with the Legal portion of the Agenda, and they have a written weed appeal. He asked Code Enforcement Office Springer to come forward. He then asked what the issue is with the appeal ?

Ms. Springer replied the owner claims that he mowed it after the notice was received, not the Street Department. Asst. Comm. Miller talked with the workers who did the actual mowing and they said they did in fact, mow it.

Board member Fuelling stated from the paperwork presented, it appears on September 8, the Allyn's mowed it and then the Street Department says they mowed it on September 17. He added Ms. Springer has pictures and her packet of information is well documented. He stated he does not feel anyone is telling a falsehood here. He is not questioning that the Allyn's mowed it. Comm. Dieterle replied the Street Department mowed and weed eaten.

Board member Fuelling stated the paper work all seems to be in order and correct.

Ms. Springer added she checked the property on September 20 and it was fine.

Board member Fuelling stated it seems that maybe the question here is the timeframe, but it seems the letters went out in a timely manner and everything seems to be well documented. Yes, the Allyn's mowed it, but the Street Department it as well and they spend a lot of time doing so.

Ms. Springer added this is not Mr. Allyn's first violation.

Board member Curtis stated they need to find a way to address the repeat offenders.

Board member Fuelling stated he feels the timeframe also needs to be addressed as it is such a long process and yards can get out of hand quickly. He added Ms. Springer did an excellent job with her packet and followed to ordinance to a T. He then moved the request to appeal the weed mowing charges on 532 E 3rd Street be denied. Seconded by Board member Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Mayor Tucker asked if anyone in the Audience wished to address the Board ?

There was no response.

Mayor Tucker asked if there was any Old Business ?

There was none.

Mayor Tucker asked if there was any New Business ?

Board member Curtis stated IACT is next week and he moved those attending be given permission to use the city credit card and city vehicles. Seconded by Board member Fuelling.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Mayor Tucker then stated October 24 the city will receive some good publicity. At noon, the sewer plant will have a ribbon cutting, followed by a light lunch. He added the IDEM Commissioner will be there to help cut the ribbon. Board member Fuelling replied that is significant. Mayor Tucker agreed and added this is in conjunction with the completion of the Long Term Control Plan, the CSO elimination, the removal of the agreed order as well as the upgrades to the plant.

Mayor Tucker stated if there was no further business, he entertains a motion to adjourn. Board member Fuelling moved the meeting be adjourned. Seconded by Board member Curtis. Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously and adjourned the meeting.

John Tucker
Mayor

ATTEST:

Cristi L. Sitzman
Clerk-Treasurer